

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5684 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed :  
to see the judgements?
2. To be referred to the Reporter or not? :
3. Whether Their Lordships wish to see the fair copy :  
of the judgement?
4. Whether this case involves a substantial question :  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? :

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SURESHKUMAR BALSHANKER BHATT

Versus

STATE OF GUJARAT

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Appearance:

MR MC BHATT for Petitioner

Mr.V.M.Pancholi Asst.GOVERNMENT PLEADER for

Respondent No. 1

NOTICE SERVED for Respondent No. 3

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 05/08/1999

ORAL JUDGEMENT

By this petition under Article 226 & 227 of the Constitution of India the petitioner has challenged the judgment and order dated 15.7.86 (Ann."E")passed by the State Government under section 211 of the Bombay Land Revenue Code suo motu taking in revision and setting aside the order dated 21.1.1985 passed by the Taluka

Development Officer, Ghoga by which the petitioner was granted permission to make non-agricultural use of the land in question.

2. The learned counsel for the petitioner pointed out from the petition that earlier there was already an order fixing the premium at Rs.1500/- vide the order dated 17.4.82 (Annex "B") passed by the Assistant Collector, Bhavnagar by which permission was granted to convert the new tenure land into old tenure land. Hence the State Government should not have raised any objection on that score. The learned counsel for the petitioner has further pointed out the averments in the memo of the petition that the petitioner has set up a industrial unit on the land adjoining the disputed land on the basis that the disputed is part of the factory premises. The petitioner has employed 50 persons and invested Rs.20 lacs.

3. The above assertions made by the petitioner on affidavit are not disputed by the respondents through any affidavit-in-reply. But the fact remains that "no objection" was not granted by various departments before the grant of NA permission. On the other hand, the land in question was purchased by the petitioner by registered sale deed in the year 1984 and since then he has been using the land for the purpose of running his industry on the adjoining land.

4. In the facts and circumstances of the case, it would, therefore, be just and proper to dispose of this petition by permitting the petitioner to make a fresh application to the competent authority for granting NA permission pointing out all the relevant facts and circumstances. Such an application shall be made within two months from today and as and when such an application is made the competent authority shall consider the same in accordance with law and without being inhibited by the order dated 15.7.86 (Annex"E") of the State Government. If the petitioner makes such an application within two months from today, the respondents shall not act upon the order impugned in this petition and shall not take any action adverse to the petitioner on the basis of the impugned order dated 15.7.86 passed by the State Government till the fresh decision on the application is taken. In any case, such decision is adverse to the petitioner, it shall not be implemented for a period of one month from the date of despatch of the decision to the petitioner by Regd.AD post.

5. The petition is disposed of in terms of the

aforesaid directions. Rule is discharged. No order as to costs.

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